

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7697

Investigation into Carl and Sherie Stariknok's request for)
electric service from Central Vermont Public Service)
Corporation in Reading, Vermont)

Order entered: 2/15/2012

HEARING OFFICER'S REPORT

I. INTRODUCTION

In this Report, I recommend that the Vermont Public Service Board ("Board") close this investigation and dismiss the complaint filed by Carl and Sherie Stariknok ("the Stariknoks") against Central Vermont Public Service Corporation ("CVPS").

II. BACKGROUND

On September 9, 2010, the Stariknoks filed a letter (the "Petition") seeking assistance from the Board in obtaining electric service for their property in Reading, Vermont, from Central Vermont Public Service Corporation ("CVPS"). According to the Petition, the Stariknoks' request for electric service from CVPS was first made in 2006 and had come to "a standstill."

The Petition was accompanied by numerous documents — including a printout of a computer case file from the Consumer and Public Information Division of the Vermont Department of Public Service — reflecting the unsuccessful efforts that have been made over the last several years to resolve an impasse between the Stariknoks and their neighbor, Andrew Hall, regarding the design of a line-extension route that would pass through Mr. Hall's property to extend electric service from CVPS's existing distribution system to the Stariknok's property. It appeared from the documents accompanying the Petition that the affected parties (the Stariknoks, Mr. Hall and CVPS) had considered the potential need to resort to condemnation proceedings in

order to resolve this impasse. However, no petition seeking a condemnation order had been filed.

On January 7, 2011, the Board opened an investigation pursuant to 30 V.S.A. §§ 208 and 219 to examine why CVPS has been unable to provide the Stariknoks with the electric service they first requested in 2006.

On February 1, 2011, a site visit and prehearing conference were convened in Reading, Vermont. Notices of appearance were entered as follows: the Stariknoks, appearing *pro se*; Jeanne E. Burns, Esq., on behalf of CVPS; and Laura Beliveau, Esq., on behalf of the Vermont Department of Public Service.

At the end of the prehearing conference, the Stariknoks indicated that they "would like to see this process basically go no farther," and that they would welcome a renewed opportunity to arrange for a private resolution of this matter.¹ Accordingly, I afforded the parties an interval of several months to pursue a settlement.

On August 1, 2011, I requested a status report from the parties concerning their progress toward settlement. On September 20, 2011, CVPS reported that since the date of the prehearing conference, "the Stariknoks have not contacted CVPS. They have not informed us that they reached an agreement with Mr. Hall of New Hall Farm regarding an easement; they have not requested CVPS to commence a condemnation; nor have they indicated that they would be willing to pay the costs of any such condemnation. For these reasons, it appears that this matter should be dismissed at this time."² In turn, on September 21, 2011, the Stariknoks filed a letter stating that their neighbor, Mr. Hall, has not responded to their inquiries concerning the possibility of obtaining an easement in their favor. The Stariknoks further explained that "the reason we have not contacted CVPS for condemnation is because we did not want the expense."³ The letter from the Stariknoks concluded with the statement that they "will have to proceed to

1. Docket 7697, prehearing transcript dated 2/1/11 at 48 and 51.

2. *Letter from Carolyn B. Anderson, Esq., on behalf of CVPS, to Susan M. Hudson*, dated September 20, 2011.

3. *Letter from Carl and Sherie Stariknok to Susan Hudson, Clerk*, dated September 21, 2011.

living off the grid with a Wind Mill and solar power. This is not what we wanted, but we have no choice unless we go to court for condemnation and the expense."

Under Vermont law, CVPS is obliged to "furnish reasonably adequate service, accommodation and facilities to the public."⁴ In aid of discharging this duty, a public utility may, if necessary, condemn an easement or other limited property right.⁵ In exercising the power of condemnation, Vermont utilities are further bound to follow the terms of their tariffs as approved by the Board. CVPS' line-extension tariff provides that "[w]henever . . . condemnation or other expenses necessary to secure rights-of-way, are required for the construction, the Customer shall pay the additional cost of obtaining such . . . right(s) as special construction charges."⁶

From the status report the Stariknoks filed on September 21, 2011, it is apparent that the Stariknoks are aware of their right to pursue condemnation in order to obtain the electric service they desire, and that they have declined to avail themselves of this legal remedy. This in turn explains why, to date, CVPS has been unable to provide electric service to the Stariknoks' property in Reading, Vermont. Having reached this conclusion, I recommend that the Board close this investigation.

This Report was served upon the parties for comment pursuant to 30 V.S.A. § 811. None of the parties elected to file any comments.

Dated at Montpelier, Vermont, this 13th day of February, 2012.

s/June E. Tierney
June E. Tierney, Esq.
Hearing Officer

4. 30 V.S.A. § 219.

5. 30 V.S.A. § 110.

6. V.P.S.B. No. 6, Fifth Revised Sheet 8.3., *Central Vermont Public Service Corporation Rules and Regulations for Electric Service*, Electric Service Extensions and Relocations § 3.C.3.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The conclusions and recommendations of the Hearing Officer are adopted.
2. The complaint of Sherie and Karl Stariknok is dismissed.
3. This docket shall be closed.

Dated at Montpelier, Vermont, this 15th day of February, 2012.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: February 15, 2012

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

